

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ **DEC 22 2022** ★

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ADAM KAPLAN

Movant

v.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Respondent

LONG ISLAND OFFICE

**MISC. 22 3687**

**BROWN, J.**

**MOTION FOR ORDER  
PURSUANT TO CUSTOMER CHALLENGE PROVISIONS  
OF THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978**

Adam Kaplan (the "Movant"), by his attorneys, ANCONA ASSOCIATES, moves this Court, pursuant to Section 1110 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3410, for an order preventing the government from obtaining access to my financial records. The agency seeking access is the United States Securities and Exchange Commission.

Movant's financial records are held by Bank of America, N.A., c/o Christina Iv, Legal Order and Case Resolution, DE5-024-02-08, 800 Somerset Drive, Newark, DE 19713.

Movant has attached his sworn statement in support of this motion.

Respectfully submitted,



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VINCENT J. ANCONA, ESQ.

ANCONA ASSOCIATES  
220 OLD COUNTRY ROAD  
MINEOLA, NY 11501

Tel: 516-739-1803

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Email: [VJA@ANCONALAW.COM](mailto:VJA@ANCONALAW.COM)

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

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ADAM KAPLAN

Movant

v.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Respondent

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**CERTIFICATE OF SERVICE**

I, Vincent J. Ancona declare under penalty of perjury that I have mailed or delivered a copy of the attached Motion and sworn statement to:

United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Steven Klawans  
Assistant Regional Director  
Chicago Regional Office  
Securities and Exchange Commission  
175 W. Jackson, Suite 1450  
Chicago, IL 60604

Melinda Hardy, Esq.  
Associate General Counsel  
Securities and Exchange Commission  
100 F St., N.E.  
Washington, D. C. 20549

  
\_\_\_\_\_  
VINCENT J. ANCONA, ESQ.  
ANCONA ASSOCIATES  
220 OLD COUNTRY ROAD  
MINEOLA, NY 11501  
Tel: 516-739-1803  
Fax: 516-739-1553  
Email: VJA@ANCONALAW.COM



CHICAGO  
REGIONAL OFFICE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
175 W. JACKSON BOULEVARD, SUITE 1450  
CHICAGO, IL 60604

DIVISION OF ENFORCEMENT

Steven Klawans  
Assistant Regional Director

**CUSTOMER NOTICE**

November 28, 2022

Adam Kaplan  
c/o Todd Blanche  
Cadwalader, Wickersham & Taft LLP  
200 Liberty Street, New York, NY 10281

Re: In the Matter of IHT Wealth Management, LLC, C-8834

Dear Mr. Kaplan:

Records or information concerning your transactions held by the financial institution named in the attached subpoena are being sought by the United States Securities and Exchange Commission (the "Commission") in accordance with the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401-22. On December 16, 2021 the Commission entered a formal order of investigation, "In the matter of IHT Wealth Management, LLC." The attached subpoena was issued pursuant to the formal order of investigation, and the information sought is to assist the Commission in determining the issues set forth in the formal order of investigation. That order states that the Commission deems certain acts and practices to be in possible violation of: Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, Sections 206(1), 206(2) of the Investment Advisers Act, and possible failures to supervise under Section 203(3) of the Investment Advisers Act. You may arrange to review a copy of the formal order, if you have not already done so, by contacting me.

The authority for this investigation is: Section 20(a) of the Securities Act of 1933; Section 21(a) of the Securities Exchange Act of 1934; and Section 209(a) of the Investment Advisers Act of 1940. If you desire a copy of the authority for this investigation, please contact me.

If you desire that such records or information not be made available to the Commission in response to the subpoena, you must:

- (1) Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the

Commission, and giving either the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

(2) File the motion and sworn statement (together with the applicable filing fee) by mailing or delivering them to the Clerk of any one of the following United States District Courts:

- a. Northern District of Illinois
- b. The District Court with jurisdiction over the financial institution.
- c. The District Court with jurisdiction over your place of residence.
- d. Any other District Court that is appropriate under 28 U.S.C. 1391(e).

(It would simplify the proceeding if you would include with your motion and sworn statement a copy of the attached subpoena, as well as a copy of this notice.)

(3) Serve the Commission by mailing (by registered or certified mail) or by delivering a copy of your motion and sworn statement to:

Steven Klawans  
Assistant Regional Director  
Chicago Regional Office  
Securities and Exchange Commission  
175 W. Jackson, Suite 1450  
Chicago, IL 60604

and

Melinda Hardy, Esq.  
Associate General Counsel  
Securities and Exchange Commission  
100 F St., N.E.  
Washington, D. C. 20549

- (4) Be prepared to come to court and present your position in further detail.
- (5) You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of the earlier of ten days from the date of service or fourteen days from the mailing of this notice, the records or information requested therein will be made available to the Commission. These records may be

transferred to other government authorities for legitimate law enforcement inquiries, in which event (except as provided by law), you will be notified after the transfer.

As you may know, in light of the COVID-19 situation, the SEC staff is operating in a full telework posture with limited exceptions. As a result, we may not be able to access our mail on a regular basis. To ensure we receive notice of your challenge, in addition to mailing or delivering any challenge you file in court to the SEC, you should send a copy of any RFPA challenge you file in court to the following e-mail address: [RFPA@sec.gov](mailto:RFPA@sec.gov).

Providing this notice to you shall not be construed as a waiver by the Commission of any right it may have to assert that the provisions of the Right to Financial Privacy Act of 1978 do not require such a notice.

Very truly yours,

/s/ Steven Klawans

Steven Klawans  
Assistant Regional Director  
Division of Enforcement

Enclosures:

Subpoena  
Instructions  
Motion Form  
Certificate of Service  
Sworn Statement Form

**INSTRUCTIONS FOR COMPLETING AND FILING THE  
ATTACHED MOTION AND SWORN STATEMENT**

1. Except where signatures are required, the indicated information should be either typed or printed legibly in ink in the spaces provided on the enclosed motion and sworn statement forms. The information required for each space is described in parentheses after each space to be completed.

2. The most important part of your challenge application is the space on the “sworn statement” form, where you must state your reasons for believing that the financial records sought are not relevant to the legitimate law enforcement inquiry stated in the enclosed notice. You may also challenge the Commission's access to the financial records if you believe there has not been substantial compliance with the Right to Financial Privacy Act, or for any other reasons allowed under the law. You should state the facts that are the basis for your challenge as specifically as you can.

3. To file your challenge with the Court, either mail or deliver the original and one copy of your challenge papers together with cash, certified check, or money order for the applicable fee to the Clerk of the appropriate U.S. District Court. (Courts may charge varying filing fees; you should contact the Clerk of the Court to determine the exact amount.)

4. One copy of your challenge papers (motion and sworn statement) must be delivered or mailed (by registered or certified mail) to the Commission officials whose names appear on the Customer Notice. These papers must be received by those officials on or before the earlier of 14 days after the date of mailing of the subpoena or 10 days after delivery for your rights under the Right to Financial Privacy Act to be preserved.

5. If you have further questions, contact the Commission officials whose names and telephone numbers appear on the Customer Notice.

IN THE UNITED STATES DISTRICT COURT

FOR THE \_\_\_\_\_ DISTRICT OF \_\_\_\_\_

\_\_\_\_\_  
(Your Name),

Movant

v.

UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION

Respondent

MOTION FOR ORDER  
PURSUANT TO CUSTOMER CHALLENGE PROVISIONS  
OF THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978

I, \_\_\_\_\_, (your name) move this Court, pursuant to Section 1110 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3410, for an order preventing the government from obtaining access to my financial records. The agency seeking access is the United States Securities and Exchange Commission.

My financial records are held by \_\_\_\_\_

\_\_\_\_\_  
(name and address of financial institution).

I have attached my sworn statement in support of this motion.

Respectfully submitted,

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Your Signature, Name, Address,  
and Telephone Number)

**CERTIFICATE OF SERVICE**

I declare under penalty of perjury that I have mailed or delivered a copy of the attached motion and sworn statement to \_\_\_\_\_  
\_\_\_\_\_ (names of officials listed at Item 3 of Customer Notice)  
on \_\_\_\_\_ (date).

\_\_\_\_\_  
(Signature)



IN THE UNITED STATES DISTRICT COURT

FOR THE \_\_\_\_ DISTRICT OF \_\_\_\_

\_\_\_\_ (Your Name),  
Movant  
  
v.  
  
UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION,  
Respondent

I, \_\_\_\_\_ (your name), (am now/was previously) a customer of  
\_\_\_\_\_  
\_\_\_\_ (name and address of financial institution) and I am the customer whose  
records are being requested by the United States Securities and Exchange Commission.

The financial records sought by the United States Securities and Exchange Commission  
are not relevant to the legitimate law enforcement inquiry stated in the Customer Notice that was  
sent to me because

or should not be disclosed because there has not been substantial compliance with the Right to  
Financial Privacy Act of 1978 in that

or should not be disclosed on the following other legal basis:

I declare under penalty of perjury that this statement foregoing is true and correct.

\_\_\_\_\_  
(signature)

Dated: \_\_\_\_\_

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ADAM KAPLAN

Movant,

-against-

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Respondent.

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MOTION FOR ORDER PURSUANT TO CUSTOMER CHALLENGE  
PROVISIONS OF THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978

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ANCONA ASSOCIATES  
Attorneys for Movant  
220 Old Country Road  
Mineola, New York 11501  
Phone: (516) 739-1803  
Fax: (516) 739-1553

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To: Steven Klawans  
Assistant Regional Director  
Chicago Regional Office  
Securities and Exchange Commission  
175 W. Jackson, Suite 1450  
Chicago, IL 60604

Melinda Hardy, Esq  
Associate General Counsel  
Securities and Exchange Commission  
100 F St., N.E.  
Washington, D.C. 20549

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Service of a copy of the within

Certification Pursuant to Signature (Rule 130.1-1-a)

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Vincent J. Ancona  
Attorney for Plaintiffs